(7) CF-4001-

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 67 /2004

PETITIONERS : 1) Vikash Chakraborty
S/o Late A.K. Chakraborty,
Aged about 39 years,
R/o J.P. Colony D.B.29,
South Eastern Coal Fields Ltd
Korba, Distt.Korba (CG).

2) Amarjit Singh
S/o Late Jogender Singh,
Aged about 26 years,
R/o 'Jungle Colony
House No. M/26
South Eastern Coalfields Ltd.
Korba, Distt. Korba (CG).

3) Deepak Mukherjee
S/o S.K. Mukherjee,
Aged about 29 years,
R/o Sharda Vihar, MIG-52
Near Amaraiya, Korba
District-Korba (CG).

4) N.D. Bhattacharya
S/o T.B. Bhattacharya,
Aged about 40 years,
R/o LIG-8, Shivaji Nagar,
Korba, Distt. Korba (CG).

P.R. No. 47/04
Presented by Shri Vijay Deshmukh
dated 05.01.04

VERSUS

RESPONDENTS : 1) South Eastern Coalfield Ltd.
Through its Managing Director
S.E.CL. Seepat Road,
Bilaspur, Distt.Bilaspur (CG)

2) The Director (Personnel)
South Eastern Coalfields Ltd
Seepat Road, Bilaspur
District Bilaspur (CG).

3) The General Manager (Personnel)
South Eastern Coalfields Ltd
Seepat Road, Bilaspur
District-Bilaspur (CG).

4) The Personnel Manager,
South Eastern Coalfields Lt
Korba Area, Korba
District-Korba (CG).

5) The Works Manager,
Central Electrical & Mechani
-cal Workshop, S.E.C.L.,
Korba Distt. Korba (CG).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.No. 67/2004

मामला क्रमांक ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

19.09.2006

Shri P. Diwakar, Sr. Advocate with Shri P.R. Patankar, counsel for the petitioner.

Shri Vinod Deshmukh, counsel for the respondents.

Arguments heard.

Order dictated as follows:

Oral Order

By way of this writ petition filed under Article 226 of Constitution of India, the petitioners, who are the General Mazdoor Category-1, working in S.E.C.L., Korba have challenged the legality of orders dated 31.07.2003 & 15.12.2003 (Annexure-P/6) passed by the Management, by which they have been directed to again join in their original place i.e. Korba area on account of reason that the petitioners were not I.T.I. holders and the persons required to be kept in CWS Korba, should be the I.T.I. holders.

The brief facts are that these petitioners were working as General Mazdoor Category-1 in the underground mines in Korba area of S.E.C.L. By earlier orders of the Management, they were transferred to CWS Korba, where they had to perform surface duty. It is submitted by learned counsel for the petitioners that as the petitioners were working in underground duty since last 9 years, they were transferred to the surface duty on their applications after taking no objection from the concerned Department by orders dated 19.08.2002, 24.08.2002 and 26.08.2002, collectively filed as Annexure-P/5. His further submission is that many persons, who were not I.T.I. holders were given surface duty from underground

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आदेश पत्रक

मामला क्रमांक W.P.No. 67/2004 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

duty and they have been detained by the Management and the petitioners have been chosen to sent back to the underground duty again which is discriminatory and deserves to be set aside by this Court.

A return on behalf of the Management has been filed. It has been stated in the return that the impugned orders have been issued after taking into consideration that the requirement at the Central E/M Workshop Korba was for I.T.I. holder workers and on scrutiny it was found that inadvertently, the petitioners names were also processed and they were posted at Central Workshop, though they were not having requisite qualification from I.T.I.. The submission of learned counsel for the respondents is that the basic appointments of the petitioners were made for performing underground duty and the petitioners cannot, as a matter of right, claim for their posting on surface duty and no statutory provisions permit to do like this.

It is not disputed in this case by both the parties that the petitioners are not I.T.I. holders. It is further not disputed that the basic appointments of the petitioners were made for performing underground duty in the coal mines. The only point raised by learned counsel for the petitioners is that since the cases of other persons, who are not I.T.I. holder, are time to time considered by the Management for their posting on surface duty, the cases of the petitioners were considered and they were given surface duty. His submission is that once the surface duty was awarded to them, that should not be taken away.

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(101)

आदेश पत्रक

मामला क्रमांक W.P.No. 67/2004 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In the opinion of this Court, in view of the specific pleadings made by respondents in the return that the persons who are I.T.I. holders, are only required for working in Central Electrical and Mechanical Workshop and the petitioners were inadvertently posted on that place, in absence of any statutory provisions, a writ cannot be issued in favour of the petitioners that they should be allowed to be posted at the said place, though they do not have a qualification from I.T.I.

However, as stated by learned counsel for the petitioners that many persons who are not I.T.I. holder have been given duties on surface, and there is requirement for the petitioners, let the petitioners make a representation before the concerned authority and the concerned authority should take a decision on the representation made by the petitioners. If so advised, the petitioners may file representation(s) before the concerned authority and if such a representation along with a copy of this order is filed within 3 weeks from today, the said authority shall decide the same in an objective manner at the earliest and if any benefit can be given to the petitioners, looking to their long underground duty of about 9 years, that may be considered by them.

With the aforesaid observations, the petition stands finally disposed of.

Sd/-
Sunil Kumar Sinha
Judge

vatti

(पीछे देखिये)